



06-11-04

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:**

Lisonbee et al.

**Serial No.:** 10/663,353

**Filed:** September 15, 2003

**For:** COMPOSITIONS INCLUDING  
DIFFERENT TYPES OF TRANSFER  
FACTOR, METHODS FOR MAKING THE  
COMPOSITIONS, AND METHODS OF  
TREATMENT USING THE  
COMPOSITIONS

**Confirmation No.:** 1601

**Examiner:** Unknown

**Group Art Unit:** 1614

**Attorney Docket No.:** 2820-5964US

**NOTICE OF EXPRESS MAILING**

Express Mail Mailing Label Number: EV348043480US

Date of Deposit with USPS: June 10, 2004

Person making Deposit: Christopher Haughton

**REQUEST FOR RECONSIDERATION  
OF PETITION TO MAKE SPECIAL  
(INFRINGEMENT)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Attention: Special Program Examiner for Relevant Group Art Unit (1614)

**Petition**

A Petition to Make Special was filed pursuant to M.P.E.P. § 708.02 II on  
February 26, 2004.

**Requirements under M.P.E.P. § 708.02 II**

- (A) There is an infringing service actually on the market and an infringing method actually in use.
- (B) A rigid comparison of the alleged infringing service and method with the claims of the above-referenced application has been made. In the opinion of the undersigned attorney, some of the claims are unquestionably infringed.
- (C) The undersigned attorney has made a careful and thorough search of the prior art.

The Petition was dismissed in a Decision dated May 4, 2004, for failing to comply with the requirement that a careful and thorough search of the prior art be conducted. It is respectfully submitted that such a search was conducted and did not result in the discovery of any art that would be material to the patentability of the subject matter recited in the claims of the above-referenced application.

In any event, another thorough search has been conducted, and the references that are most relevant to the patentability of the claims of the above-referenced application are being cited in an Information Disclosure Statement that is being filed concurrently herewith.

In addition, the Office has demanded that “some evidence of an allegedly infringing product[,] identified by name, trademark, etc., . . . be presented . . .”

Copies of marketing literature for IMMUNE TRANSFER C<sup>TM</sup>, a product of ProHealth, Inc., are enclosed. Specifically, the ProHealth marketing literature indicates that “ImmuneTransfer C<sup>TM</sup> is a scientifically formulated blend of transfer factors derived from chicken lymphocytes and colostrum extracts . . .,” subject matter which falls within the scopes of the claims of the above-referenced application. Based upon information and belief, it is our understanding that this literature was not published until after the filing date of the above-referenced application.

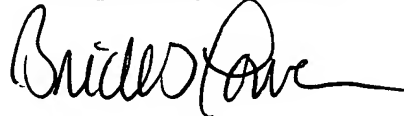
**Fee**

A check in the amount of \$130.00 was filed with the Petition to Make Special of February 26, 2004 to satisfy the fee required by 37 C.F.R. § 1.17(h). In the event that there is any

deficiency in the fee, or if an overpayment has been made, the Office is hereby authorized to debit or credit TraskBritt Deposit Account No. 20-1469 for any such deficiency or overpayment.

Prompt reconsideration of the Petition to Make Special is respectfully requested.

Respectfully submitted,



Brick G. Power  
Registration No. 38,581  
Attorney for Applicants  
TRASKBRITT, PC  
P.O. Box 2550  
Salt Lake City, Utah 84110-2550  
Telephone: 801-532-1922

Date: June 10, 2004

Enclosures: Copy of Decision on Petition to Make Special (Infringement)  
Copy of Information Disclosure Statement and References  
Copy of "Transfer Factor—The Key to Immune System Memory"  
Copy of "Immune Transfer C TM – Complex transfer factor for fatigue and more," from [www.immunesupport.com](http://www.immunesupport.com) on January 22, 2004

BGP/rmh  
Document in ProLaw



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov



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MAY 10 2004

TRASKBRITT, PC

MAY - 4 2004

TRASK BRITT  
P.O. BOX 2550  
SALT LAKE CITY UT 84110

In re Application of  
David Lisonbee et al  
Serial No.: 10/663,353  
Filed: September 15, 2003  
Attorney Docket No.: 2820-5964

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:  
: PETITION TO MAKE SPECIAL  
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This is in response to applicants' petition filed February 26, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has not satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement. Therefor the petition is **DISMISSED**.

Applicants' petition indicates the "making of a careful and thorough search" and that "all of the references...located...are already of record...in the application. Accordingly no additional references are supplied." However, no references are of record in the application and no listing of references was supplied. One or two US Patents are noted in the specification, however this does not satisfy the requirement set forth in M.P.E.P. 708.02, II. Some indication of the area searched and a listing of references discovered which are most closely related to the claimed subject matter is required.

In addition, some evidence of an allegedly infringing product identified by name, trademark, etc., should be presented where it is alleged that a product is infringed.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number.

William R. Dixon, Jr.  
Special Program Examiner  
Technology Center 1600

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:**

Lisonbee et al.

**Serial No.:** 10/663,353

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**INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In compliance with the duty to disclose information material to patentability pursuant to 37 C.F.R. § 1.56, it is respectfully requested that this Information Disclosure Statement be entered and the documents listed on attached Form PTO-1449 or PTO/SB/08 be considered by the Examiner and made of record. Copies of the listed documents are enclosed pursuant to 37 C.F.R. § 1.98(a).

In accordance with 37 C.F.R. § 1.97(g) and (h), filing of this Information Disclosure Statement is not to be construed as a representation that a search has been made or an admission

that the information cited herein is, or is considered to be, material to patentability as defined in 37 C.F.R. § 1.56(b). Further, no representation is made by Applicants herein that no other possible material information as defined in 37 C.F.R. § 1.56(b) exists.

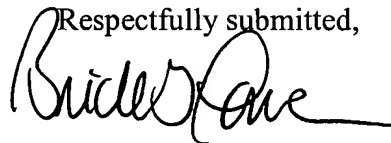
U.S. Patent Documents

<u>U.S. Patent No.</u>	<u>Publication Date</u>	<u>Patentee</u>
4,816,563	03/28/1989	Wilson et al.
6,468,534 B1	10/22/2002	Hennen et al.
US 2002/0044942 A1	04/18/2002	Dopson

Applicants offer to supply any explanation or discussion of the documents that the Examiner feels is necessary or desirable and which is requested.

This Information Disclosure Statement is believed to be filed before the mailing date of a first Office Action on the merits; therefore, no fee is due.

Respectfully submitted,



Brick G. Power  
Registration No. 38,581  
Attorney for Applicant(s)  
TRASKBRITT  
P.O. Box 2550  
Salt Lake City, Utah 84110-2550  
Telephone: 801-532-1922

Date: June 10, 2004  
BGP/rmh

Enclosures: Form PTO-1449 or PTO/SB/08  
Cited Documents

Document in ProLaw

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A/PTO <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/663,353
				Filing Date	September 15, 2003
				First Named Inventor	Lisonbee et al.
				Group Art Unit	1614
				Examiner Name	Unknown
				Attorney Docket Number	2820-5964US
Sheet	1	of	1		

[illegible][illegible]

Examiner Signature		Date Considered	
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

**Burden Hour Statement:** This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

# TRANSFER FACTOR - THE KEY TO IMMUNE SYSTEM MEMORY

HIGHLY PURIFIED, RIGOROUSLY TESTED

## TRANSFER FACTOR ESSENTIALS™



Transfer Factor Essentials	Quantity	Value
Amount Per Serving	100 mg	25%
Folic Acid	4 mg	66.6%
B-12 (as cyanocobalamin)	5 mg	33.3%
Zinc (as zinc oxide)	24 mg	33.3%
Selenium (as selenium amino acid chelate)	330 mg	
Transfer Factor Matrix 2000™	200 mg	
Beta Glucan	333 mg	
Larch arabinogalactan	375 mg	
TMG	200 mg	
IP-6	70 mg	
Asparagus (1:3 extract)		

## TARGETED TRANSFER FACTORS

### TRANSFER FACTOR SYSTEM 100™

Specialized transfer factor molecules enhance the body's immune defense  
 Stimulates immune activity to battle resurgent illness  
 Infused with vitamin B-6 to promote healthy energy levels & nerve function  
 Transfer Factor System 100™ contains specialized transfer factor molecules that support enhanced immune activity and targeted immune training to battle resurgent illnesses that may take advantage of a weakened immune system. This formula is infused with vitamin B-6, a nutrient vital to many bodily functions including converting glycogen to glucose for improved energy, and neurotransmitter production to support a healthy nervous system. Note: Testing for Epstein-Barr Virus (EBV) and Cytomegalovirus (CMV) is recommended prior to use of this product.  
 Suggested Daily Use: 1-3 capsules  
 #PH171, 30 capsules (10 - 30 day supply)  
 Retail \$29.95 • NOW \$22.95 • SAVE 23% • (DSP \$17.90\*)



### TRANSFER FACTOR SYSTEM 200™

Helps re-invigorate immune system activity  
 Contains potent antioxidant and energy producing nutrients  
 Same patented product included in the Hemex™ Lab protocol  
 This proven formula used in the Hemex™ Lab protocol works synergistically with Coenzyme Q10 and vitamin C to promote optimal immune function and improved energy levels. Both nutrients are potent antioxidants and detoxifiers, while Coenzyme Q10 promotes cellular ATP production for improved energy, and vitamin C supports improved immune cell strength and functioning. Note: Testing for Human Herpesvirus 6 (HHV6), and Cytomegalovirus (CMV) is recommended prior to use of this product.  
 Suggested Daily Use: 1-3 capsules  
 #PH172, 30 capsules (10 - 30 day supply)  
 Retail \$49.95 • NOW \$43.49 • SAVE 13% • (DSP \$37.84\*)



### FORMULA 540 (SYSTEM 100 EQUIVALENT)

Patented formula includes essential B vitamins  
 Suggested Daily Use: 1-3 capsules  
 #N0147, 30 capsules (10 - 30 day supply)  
 Retail \$29.95 • NOW \$23.95 • SAVE 20% • (DSP \$19.88\*)

### FORMULA 560 (SYSTEM 200 EQUIVALENT)

Used by health experts at the Cheney Clinic  
 Suggested Daily Use: 3 capsules  
 #N0146, 30 capsules (10 day supply)  
 Retail \$49.95 • NOW \$44.49 • SAVE 11% • (DSP \$39.60\*)

## IMMUNE TRANSFER C™

Most complete blend of targeted transfer factors for enhanced immune activity  
 Top selling transfer factor among medical practitioners  
 ImmuneTransfer C™ is a scientifically formulated blend of transfer factors derived from chicken lymphocytes and colostrum extracts that contain growth factors and other immune cofactors to provide the body with advanced immune activity. The expanded spectrum of targeted transfer factor molecules found in ImmuneTransfer C™ supports the body in selecting and recognizing a more complex variety of harmful agents that may take advantage of a weakened immune system.  
 Note: Testing for Lyme, Epstein-Barr Virus (EBV), Human Herpesvirus 6 (HHV6), Cytomegalovirus (CMV), Chlamydia, Babesia and Ehrlichia is recommended prior to use of this product.  
 Suggested Daily Use: 1 gel cap

### 30 GEL CAPS

#N0134, 100 mg (30 day supply)  
 Retail \$159.95 • NOW \$140.00 • SAVE 12% • (DSP \$135.80\*)

### 90 GEL CAPS

#N0138, 100 mg (90 day supply)  
 Retail \$409.00 • NOW \$390.00 • SAVE 5% • (DSP \$378.30\*)



[Click here for information about ImmuneTransfer C™](#)



## **ImmuneTransfer C™**

### **Complex transfer factor for fatigue and more**

- **Top selling transfer factor among alternative medical practitioners**
- **Multi-faceted formula for fatigue and more**
- **One convenient gel cap per day**
- **Transfer Factor is BSE Free**
- **30 small gel capsules, 100 mg**

Available in one gel cap per day, this specialized transfer factor is a favorite among alternative physicians coping with many of today's common but less understood maladies.

#### **Transfer Factor – the key to immune system memory**

Transfer Factor represents one of the most exciting advances in immune system health. Transfer factors are tiny protein molecules, which are produced by immune cells called T-cells. Transfer factor is based on the foundation that key immune information can be transferred from cell to cell. These cells then teach our immune system to recognize specific viruses or bacteria that our bodies may not currently recognize. This is particularly exciting given the therapeutic role transfer factors play in activating and enhancing immunity in individuals suffering from chronic illness.

#### **Highly purified, rigorously tested**

Colostrum from healthy, organically fed cows is filtered and purified to provide a mixture of pure transfer factor molecules. In the case of chicken sourced transfer factor, specific transfer factors are derived from healthy chickens and combined with specific growth factors derived from colostrum. Numerous rigorous techniques including further purification and isolation result in pure transfer factor. Every lot produced undergoes



Product #:  
N0134



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meticulous testing to ensure that the appropriate and effective levels of each transfer factor are present, before it is encapsulated and bottled.

Also, people who are lactose intolerant or who have allergies need not be concerned about a reaction, since all traces of milk proteins and lactose are removed during the extraction and concentration process.

*Note: Testing for Lyme, Epstein - Barr virus (EBV), Human Herpes virus 6 (HHV6), Cytomegalovirus (CMV), Chlamydia, Babesia and Erlichia is recommended prior to use of this product.*

Regular Price: ~~\$159.00~~

SPECIAL PRICING: \$140.00  
Savings: \$19.95

 Add to Secure Cart 1

DSP Program Price: \$135.80

 Create my D.S.P.  
Discount Shopper Program

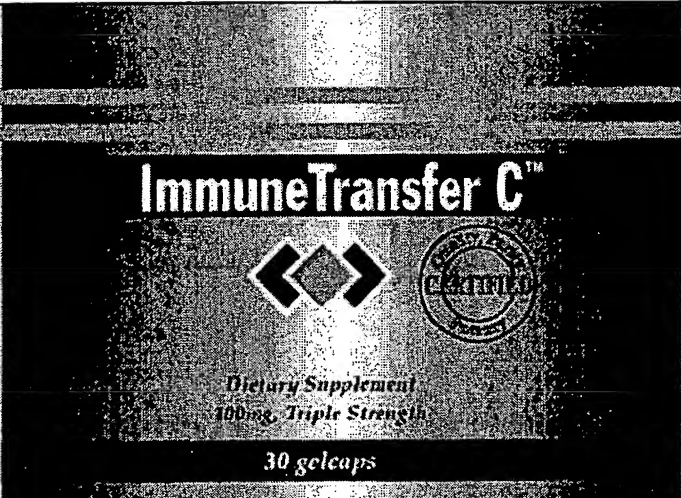
### Important Note About BSE (Mad Cow Disease) & Transfer Factor

Bovine spongiform encephalopathy (BSE) is a progressive brain disorder of cattle that results from infection by an unconventional agent. The agent is a modified form of a normal cell surface component known as prion protein. The pathogenic form of the protein is both less soluble and more resistant to enzyme degradation than the normal form. The prions then build up in the brain and cause damage to nerve cells.

**Bovine derived Transfer Factor proteins are not affected by prions.** Even if a cow were exposed to BSE, transfer factor protein molecules are a fraction of the size of BSE prions and cannot be infected by them. As a result, the advanced filtering process used to extract the smaller transfer factor molecules eliminates any potential contamination of the product.

**Transfer Factor is BSE Free.** In addition, the cattle used to produce transfer factor are isolated and used exclusively for the processing of transfer factor. Pro Health takes great care to ensure high quality and safety of our supplements as part of our commitment to empower customers to take control of their health.

### Ingredients:

<p><b>Suggested Use:</b> Take one gelcap daily or as directed by your health care professional.</p> <p>Store in refrigerator (at 40° F) with the lid tightly closed. Keep out of reach of children. Pregnant or lactating women should consult a physician before taking this or any other products, including dietary supplements.</p> <p>To order this product: Call (800) 214-4054 <a href="http://www.ImmuneSupport.com">www.ImmuneSupport.com</a> <b>N0134</b></p> <p>Rev. 8/2004</p>	 <p><b>ImmuneTransfer C™</b></p> <p><b>Dietary Supplement</b> 100mg, Triple Strength</p> <p><b>30 gelcaps</b></p>	<p><b>Supplement Facts</b> Serving Size: 1 gelcap Servings per container: 30</p> <p><small>*Amount per serving</small></p> <p><b>Proprietary Blend 100mg*</b>          (Low Molecular Weight Protein 654,000 Daltons)          Colostrum fraction, Lactobacillus fermentum, Lactobacillus casei, Lactobacillus acidophilus, L. fermentum, Bifidobacterium bifidus, ascorbic acid, brewer's yeast, lactoferrin, and alpha-lipoic acid</p> <p>* Daily Value not established</p> <p><b>Other Ingredients:</b> Gelatin and water.</p> <p>Distributed by Pro Health, Inc., Santa Barbara, CA 93102</p>
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- For product questions,  
[click here to chat online with a Product Advisor.](#)
- 30 small gel capsules, 100 mg
- Daily Use: Take 1 gelcap daily or as directed by your physician.
- Shelf Life: 3 years
- Inactive Ingredients: Gelatin, water
- Contains No: Salicylates, Casein, Gluten

**Also consider these other complementary products:**

ImmuneTransfer C <sup>TM</sup>-Complex transfer factor for fatigue and more.

CFS/FM Energy Formula-Comprehensive fatigue attacking formula.

NADH (Enada)-Favorite for promoting energy & mental clarity.

**Related articles and abstracts:**

Transfer Factor: Retraining your Immune System

Treating Chronically Ill Patients with Transfer Factor: An Exclusive Interview with Dr. Carol Ann Ryser, M.D.

Transfer Factor-- New Era for Immune Therapy?

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